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# Recommendations to Address House Scale Concerns

A report of the House Scale Sub-Committee  
to the City Council

City of Rye, New York

Prepared with the Assistance of the  
Rye City Planning and Building Departments

January 2003  
*REVISED January 29, 2003<sup>1</sup>*

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<sup>1</sup> Ed. Note: This document has been revised in response to comments received at and prior to a City Council meeting held on January 22, 2003. All changes to the January 2003 document have been shown ~~striketrough~~ for deletions and underline for additions.

## INTRODUCTION

During the past five years, the Board of Architectural Review (BAR) and the Zoning Board of Appeals (ZBA) have seen their agendas lengthen and the amount of public participation at meetings increase. Both Boards have received ~~strong~~ public input on the need to maintain open space within our neighborhoods. Concerns about the size and bulk of new construction that reduces side, rear, or front yard setbacks and overshadows existing neighbors have been repeatedly expressed to both boards. In each of the past five years Rye has seen an average of 12 new houses constructed either on subdivided lots or to replace houses that were torn down. Many houses have been extensively enlarged with additional floors added or new wings. Most of the construction has been an improvement to Rye but several cases have ~~erected~~ created some intense public debate due to the disparity of size and scale relative to their neighbors.

In the fall of 2002, the Rye City Council established a committee to review this growing concern relating to the size and scale of residential construction in the City. The committee met in September and established a House Scale sub-committee to develop specific recommendations. This report provides a discussion of the recommendations of the sub-committee which were developed with the assistance of the City Planning and Building Department Staff. The sub-committee held four meetings and one public meeting with the full committee between September and December to develop these recommendations.

In its deliberations there was general agreement among the sub-committee members that its intent was to be sensitive to existing and emerging trends in single-family residential construction, but to try to prevent some of the more objectionable elements of new or significantly modified homes that appeared to be out-of-scale with the neighborhood. The sub-committee documented detailed bulk and dimensional characteristics of over 25 existing or proposed homes to gauge its recommendations against actual experience. These case studies were helpful in modifying or dismissing some preliminary recommendations as being either too restrictive or ineffective in addressing a particular concern.

The sub-committee's efforts tended to focus on new house construction but recognized that the preliminary recommendations will apply to every single-family home in Rye. The sub-committee avoided recommendations that would result in the creation of significant regulatory non-conformities to existing homes in the community. It also respected the existing provisions in the Zoning

Code that preserve or provide relief for the many residential properties in Rye that pre-date the enactment of the City's initial zoning regulations, which may have pre-existing non-conformities. The sub-committee also preferred simplicity. Recommendations that involved complex regulations or unrealistic enforcement practices were generally disregarded.

The members of the sub-committee are listed below.

Judy Studebaker, Esq.	Chairman of the ZBA
Nick Everett, ASLA	Chairman of the BAR
Serge Nivelle	Member of the ZBA
Neal Wexler, PE	Member of the ZBA
Peter Cole, AIA	
Paul Benowitz, AIA	
Christian Miller, AICP	Rye City Planner
Vincenzo Tamburro	Rye Building Inspector

## **RECOMMENDED ZONING CODE CHANGES**

The house scale sub-committee recommends a variety of changes to the Rye City Zoning Code as it relates to single-family residential construction. The following provides a description of each of the recommendations and a discussion of their intent to address house scale concerns. It is suggested that the City Council conduct public meetings to review and discuss these concepts with the public before they are drafted into legal language appropriate for inclusion in the code. Ultimately, if accepted, these recommendations need to be drafted into local law format for City Council adoption.

The recommendations are grouped into four general categories: code conformance, scale, floor area ratio, and building height.

### **Code Conformance**

#### ***1. Review and Modify Zoning Code Definitions***

The New York State Building Code has been substantially modified and becomes effective January 1 of 2003. The new code includes many new and modified regulations that are not consistent with the Rye City Zoning Code. In addition several of the definitions used in the Rye Zoning Code are inconsistent and confusing. The sub-committee recommends that the existing definitions be carefully reviewed to reflect any changes proposed

herein and to be made consistent with the recent changes in the New York State Building Code and accepted planning practice.

## **Scale**

### 2. ~~Establish~~ Reduce the Maximum Permitted Floor Area for Oversized Properties

The sub-committee recommends ~~limiting~~ reducing the maximum permitted floor area for properties that significantly exceed the minimum lot area of the applicable zoning district (see Figure 1). ~~Preliminarily, the sub-committee suggests that residential properties not exceed the floor area permitted for a lot that is 150 percent of the minimum lot area for the district in which the property is located (see table below).~~ The sub-committee suggests that the applicable FAR be reduced by half (or 50%) for that portion of a residential property exceeding between 150 and 250 percent of the minimum lot area for the district in which the property is located. The applicable FAR should also be further reduced to one quarter (or 25%) for that portion of a residential property exceeding 250 percent of the minimum lot area for the district in which the property is located. (see examples below).

A	B	C	D	E
<b>Zoning District</b>	<b>Current FAR</b>	<b>Current Min. Lot Size</b>	<b>150% of Min. Lot Size (C x 1.5)</b>	<b>Max. Floor Area (D x B)</b>
R-1	0.15	43,560	65,340	9,801
R-2	0.20	21,780	32,670	6,534
R-3	0.25	14,520	21,780	5,445
R-4	0.30	10,000	15,000	4,500
R-5	0.35	7,500	11,250	3,938
R-6	0.40	6,000	9,000	3,600

Note: Figures in columns C, D and E are in square feet.

#### Example 1:

A 122,000 square foot property (approximately 2.8 acres) in the R-1 District under current zoning standards would be permitted to build an 18,300 square foot residence (122,000x0.15 FAR=18,300). The current minimum lot size for this district is 43,560 square feet. The maximum permitted floor area ratio (FAR) is 0.15.

Under the proposed recommendation the first 65,340 square feet of lot area ( $43,560 \times 1.5 = 65,340$ ) would apply the current FAR of 0.15 resulting in 9,801 square feet of floor area. The next 43,560 square feet of lot area would apply an FAR of 0.075 ( $0.15 \times 0.50 = 0.075$ ) resulting in 3,267 square feet of floor area. The remaining 13,100 square feet of lot area ( $122,000 - 65,340 - 43,560 = 13,100$ ) would be subject to one-quarter the permitted FAR of the R-1 District, which would permit an additional 491 square feet ( $13,100 \times 0.0375 = 491$ ). Total floor permitted floor area would be 13,559 square feet ( $9,801 + 3,267 + 491 = 13,559$ ) or 4,741 square feet less than current zoning restrictions.

Example 2:

A 40,700 square foot property (approximately 0.93 acres) in the R-3 District under current zoning standards would be permitted to build a 10,175 square foot residence ( $40,700 \times 0.25 \text{ FAR} = 10,175$ ). The current minimum lot size for this district is 14,520 square feet. The maximum permitted floor area ratio (FAR) is 0.25.

Under the proposed recommendation the first 21,780 square feet of lot area ( $14,520 \times 1.5 = 21,780$ ) would apply the current FAR of 0.25 resulting in 5,445 square feet of floor area. The next 14,520 square feet of lot area would apply an FAR of 0.125 ( $0.25 \times 0.50 = 0.125$ ) resulting in 1,815 square feet of floor area. The remaining 4,400 square feet of lot area ( $40,700 - 21,780 - 14,520 = 4,400$ ) would be subject to one-quarter the permitted FAR of the R-3 District, which would permit an additional 275 square feet ( $4,400 \times 0.0625 = 275$ ). Total floor permitted floor area would be 7,535 square feet ( $5,445 + 1,815 + 275 = 7,535$ ) or 2,640 square feet less than current zoning restrictions.

This recommendation attempts to address the construction of new homes or significantly rehabilitated homes that are constructed out-of-scale with the neighborhood. The sub-committee noted instances where relatively large (but zoning code compliant) homes were constructed that were out-of-scale with the neighborhood because the maximum permitted FAR was based on properties significantly larger than the minimum required by the applicable zoning district. The proposed floor area calculation was designed with the intent of reducing the maximum house size on over-sized properties, but not to be so restrictive that it could encourage new subdivisions. The sub-committee reasoned that some might consider applying for a subdivision to create multiple residences if the restriction on oversized properties was too restrictive.

## **Floor Area Ratio (FAR)**

### *3. Include Some Attic Floor Area in FAR Calculation*

The sub-committee recommends that a portion of attic space within a single-family residence should be included in the calculation of gross floor area. The New York State Building Code now allows occupancy of attics/third floors if the house ~~is~~ has a full sprinkler system.

The sub-committee recommends that fifty percent of the attic floor area be counted within existing or theoretical five-foot high knee walls and where the width between these walls is seven feet or greater. Where the width between the knee walls is less than seven feet none of the attic floor area would be counted. If collar beams exist below seven feet six inches the attic would not be counted (see Figure 2). This would apply to attics accessed by either permanent stairs or pull down stairs.

The intent of this recommendation is to address a concern regarding the use of attic space and the creation of "third floors" in residence districts. Under the current Zoning Code attics are not counted in the calculation of floor area if they are designated as "storage". Under this proposal only a portion of the attic would be counted. Those areas with less than seven feet six inches of headroom due to pitched roofs or collar beams would not be counted since these areas are not considered habitable space under the New York State Building Code. In addition, areas that have adequate headroom but relatively narrow width (i.e. less than seven feet) were also considered to have limited use and therefore not counted. All the dimensions used are consistent with the New York State Building Code's definition of a habitable room.

### *4. Include Internal "Void" space in FAR Calculation*

The sub-committee recommends that interior void space should be included in the calculation of gross floor area where such void space extends from the first floor higher than fourteen feet. Void space above stair treads or landings would not be included (see Figure 3).

The sub-committee noted that newer residential construction sometimes includes internal void spaces such as high ceilings associated with family rooms or entry foyers. These spaces are not currently counted in the calculation of floor area since they do

not include floors, but can contribute to the size, scale and volume of a house.

*5. Include only porches that are enclosed*

The current City of Rye Zoning Code requires that all porches and roofed-over areas be counted toward FAR calculations. In order to encourage this architectural element, it is recommended that open porches should not be counted toward total FAR. Enclosed porches would continue to be counted. The sub-committee is suggesting that the definition of an enclosed porch be any porch that has walls, windows, screens, or other elements that restrict movement on and off of the porch. An open porch can be solid up to three feet six inches above finished floor elevation (the legal height of a handrail under the New York State Building Code) but above that height to the height of the ceiling must be at least 80% open.

## **Building Height**

*6. Reduce Building Height*

The sub-committee recommends that the maximum building height should be reduced to 32 feet in the R-1 and R-2 Districts and 28 for all other residence districts (see Figure 4).

In its review of existing homes, the sub-committee noted that those residences that appeared tall did not exceed the maximum permitted building height of 35 feet. The case studies also revealed that if the building height were lowered only those structures that appeared to be most out-of-scale with their neighbors would be impacted. Many existing homes and even most new construction are below 28 feet in height.

The sub-committee agreed that building height should be varied by district. Larger districts (i.e. those with a minimum lot size of a half-acre or greater) could support taller buildings with less impact on the character of a neighborhood, while smaller districts require smaller buildings. Building height is measured from the average grade around the house to the mid-point between the eaves and the peak.

*7. Include Basement in Floor Area Calculation Where Extensive Grade Manipulation Has Occurred*

The sub-committee recommends including 25% of the basement in the calculation of gross floor area in those situations where the

existing grade has been reduced by more than three feet to create a fully exposed exterior basement wall of more than five feet in width (see Figure 5). The sub-committee noted that existing grade would be that which existed at the time of the adoption of the proposed regulation by the City Council. Building alterations that involve grade manipulation after that date would be subject to the proposed provision. Pre- and post-development topographic surveys will be required in connection with building permit applications in order to establish compliance with this provision.

The sub-committee noted concern with residences on lots where the existing grade of a property was modified to create garages in the basement. Garages are not counted in the calculation of floor area when they are located in basements but are counted when they are attached or detached. The sub-committee noted concern with this practice because it sometimes results in significant grade manipulation and the creation of a three-story façade. In addition, the sub-committee noted that the practice contributes to increasing the overall height of the structure since it often requires the lifting of the first floor elevation to provide for the proper clearance height to fit a garage in the basement.

The sub-committee noted that on some properties with the proper existing grades a garage under the first floor is desirable. The sub-committee agreed that counting basements where excessive grade manipulation (i.e. more than three feet) has occurred best addresses the concern, but again noted that including the entire basement may be a hardship. It therefore agreed that only 25% of the basement should be counted in the floor area where such grade manipulation has occurred.

#### *8. Limit First Floor Elevations Relative to Existing Grades*

The sub-committee recommends that the first floor elevation of a home not be more than three feet above the predevelopment grade in the front of the house (see Figure 6). This recommendation works in tandem with grade manipulation recommendation immediately above. It attempts to keep the first floor elevation closer to the predevelopment grade and reduce the height of the building as viewed from the street or front yard. In its review the sub-committee was sensitive to naturally occurring grades on a property and their impact on new construction. Pre- and post-development topographic surveys will be required in connection with building permit applications in order to establish compliance with this provision.



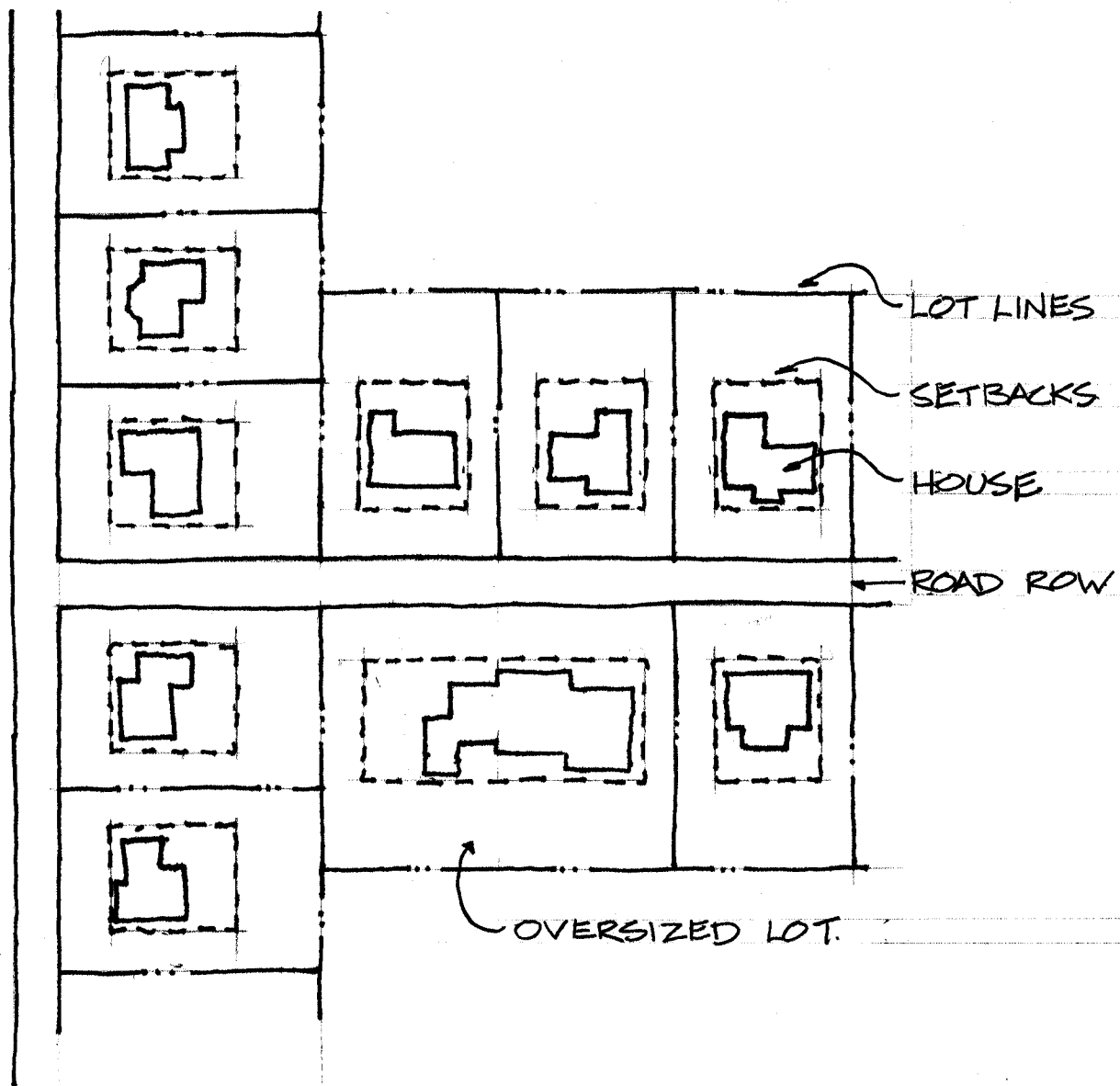


FIGURE 1: OVERSIZED PROPERTIES

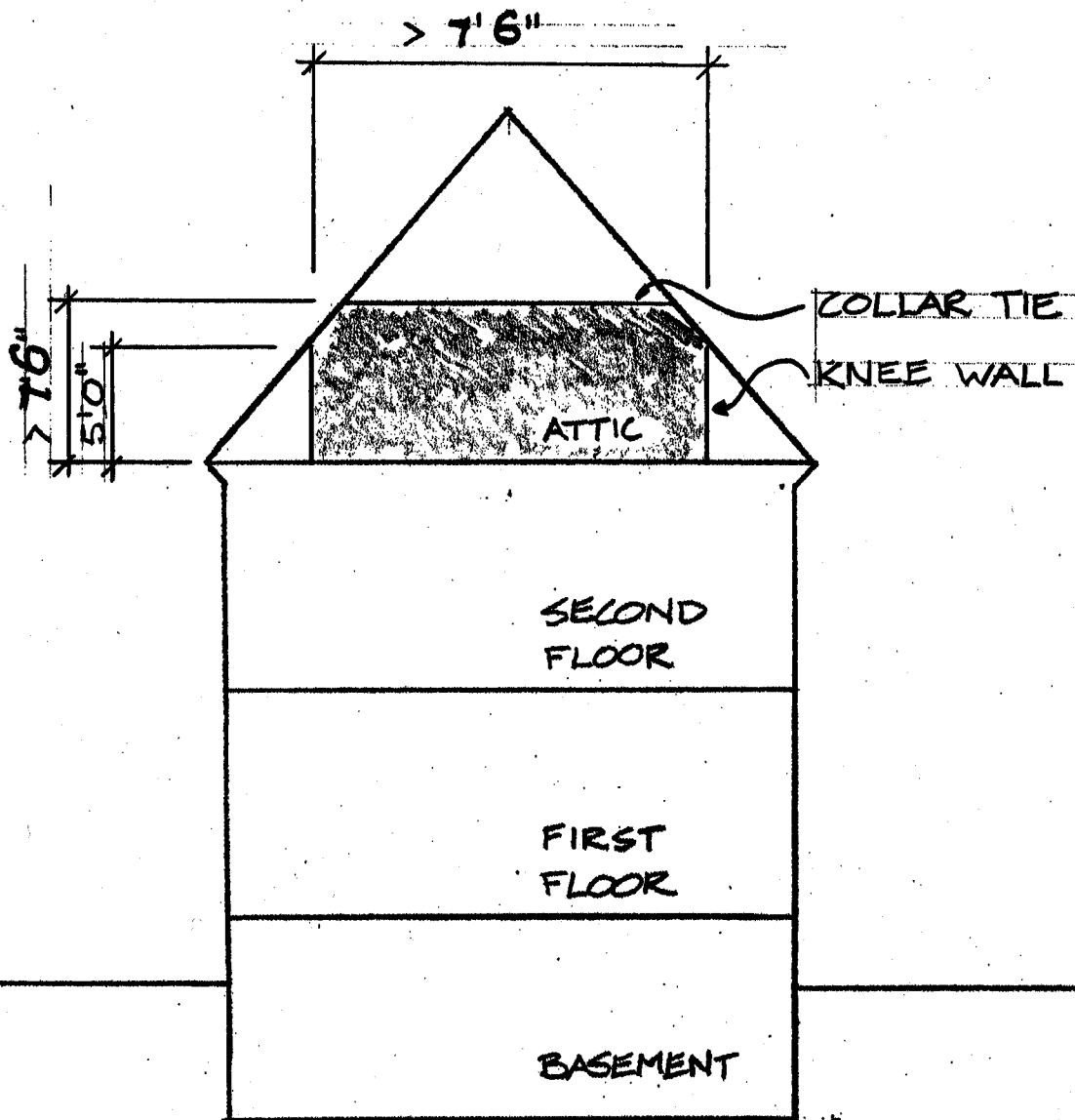


FIGURE 2: ATTIC FLOOR AREA

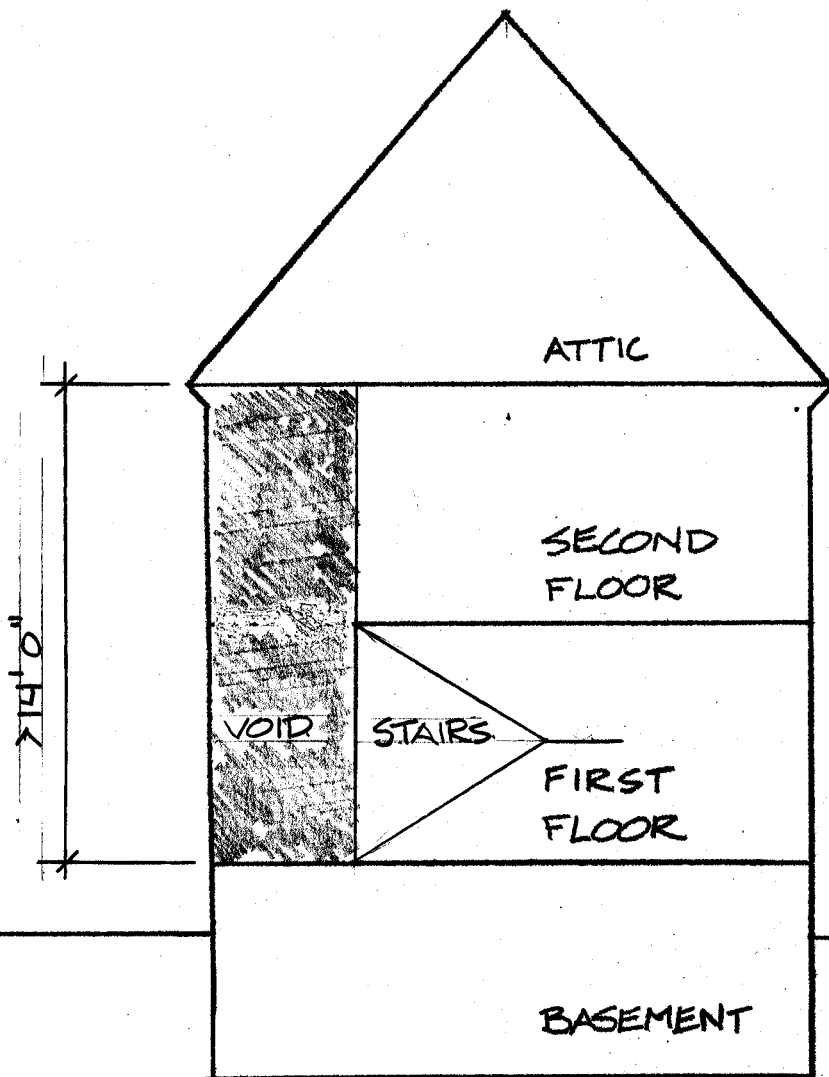


FIGURE 3: INTERNAL VOID

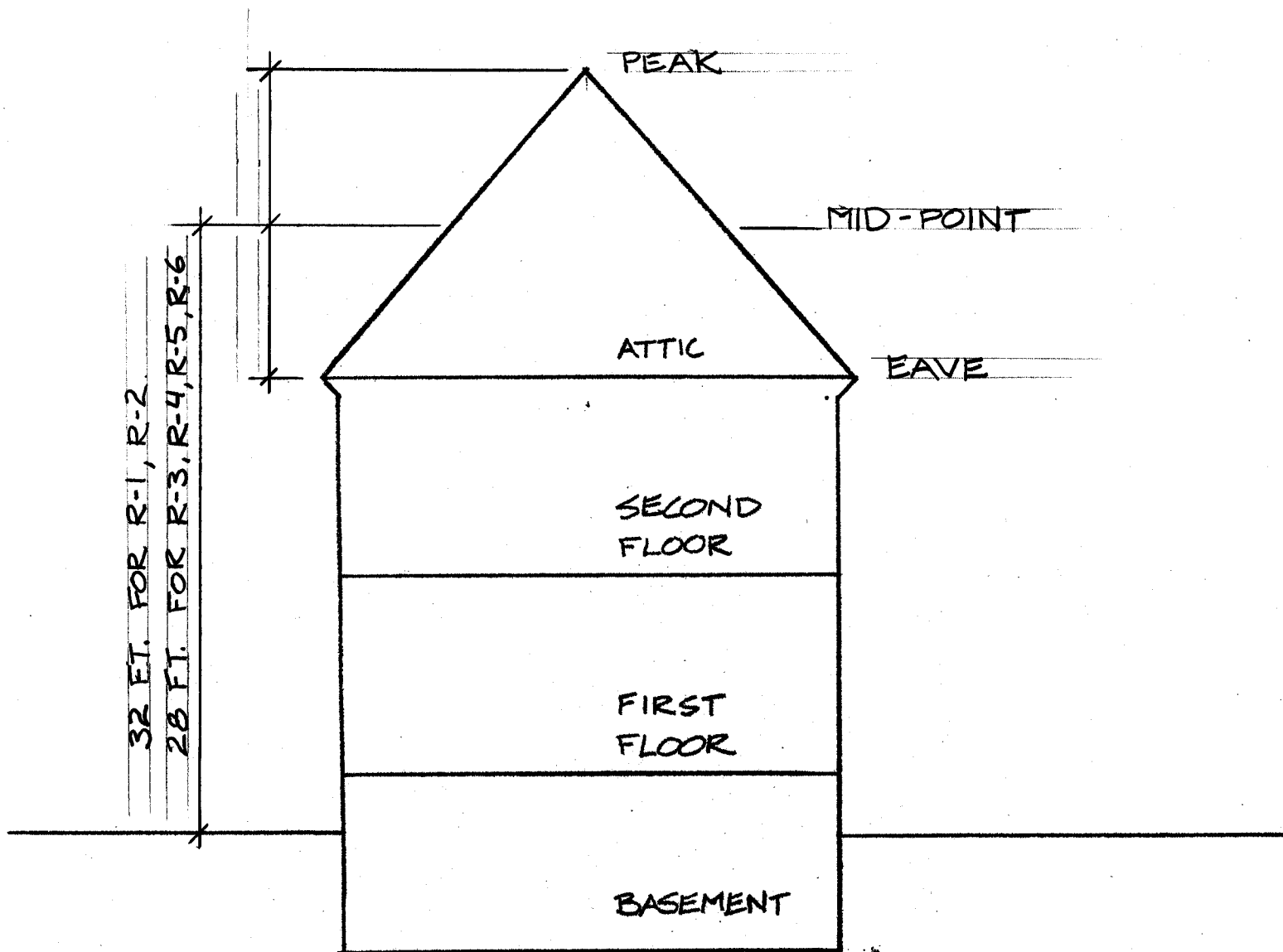


FIGURE 4: ROOF HEIGHT

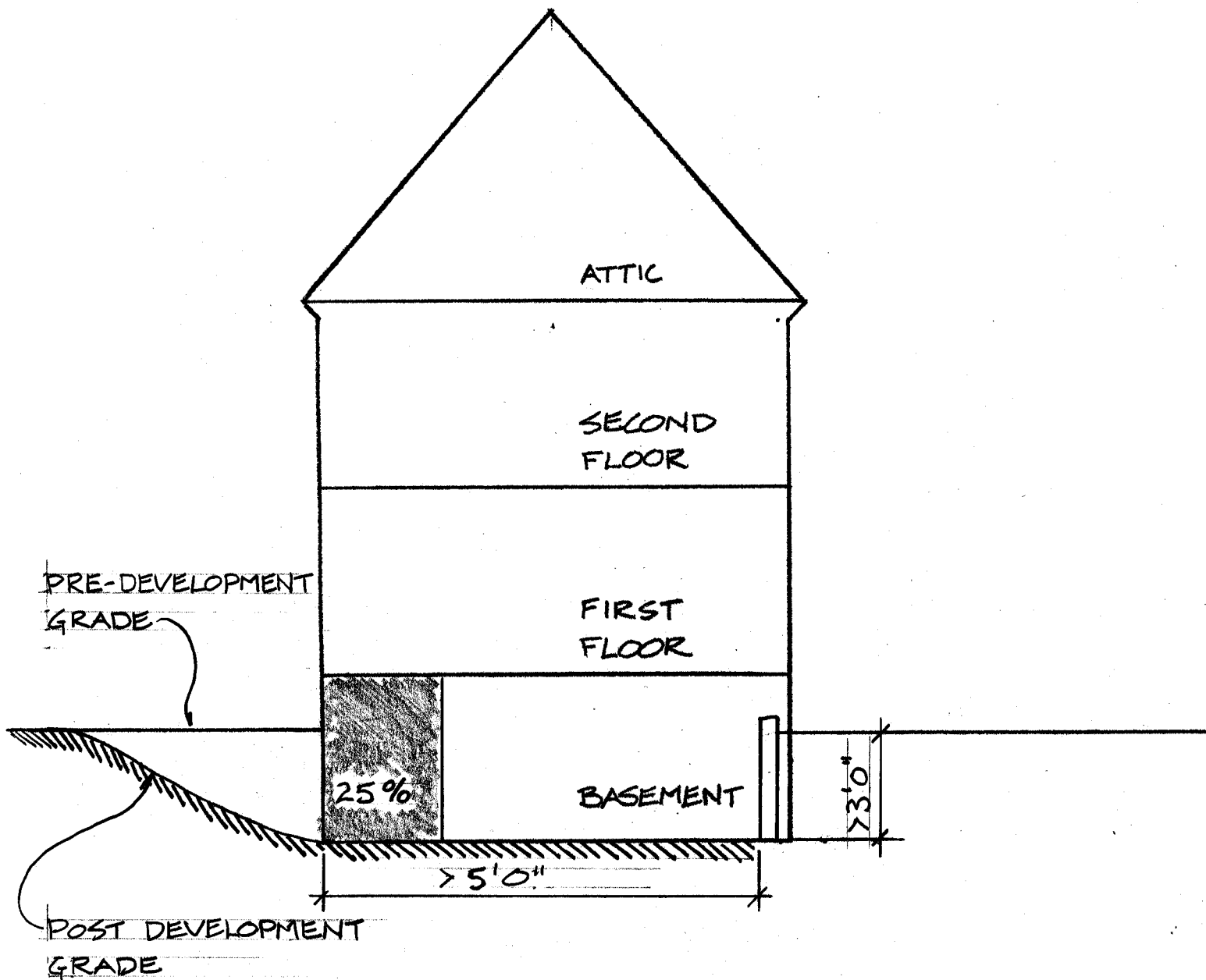


FIGURE 5: GRADE MANIPULATION

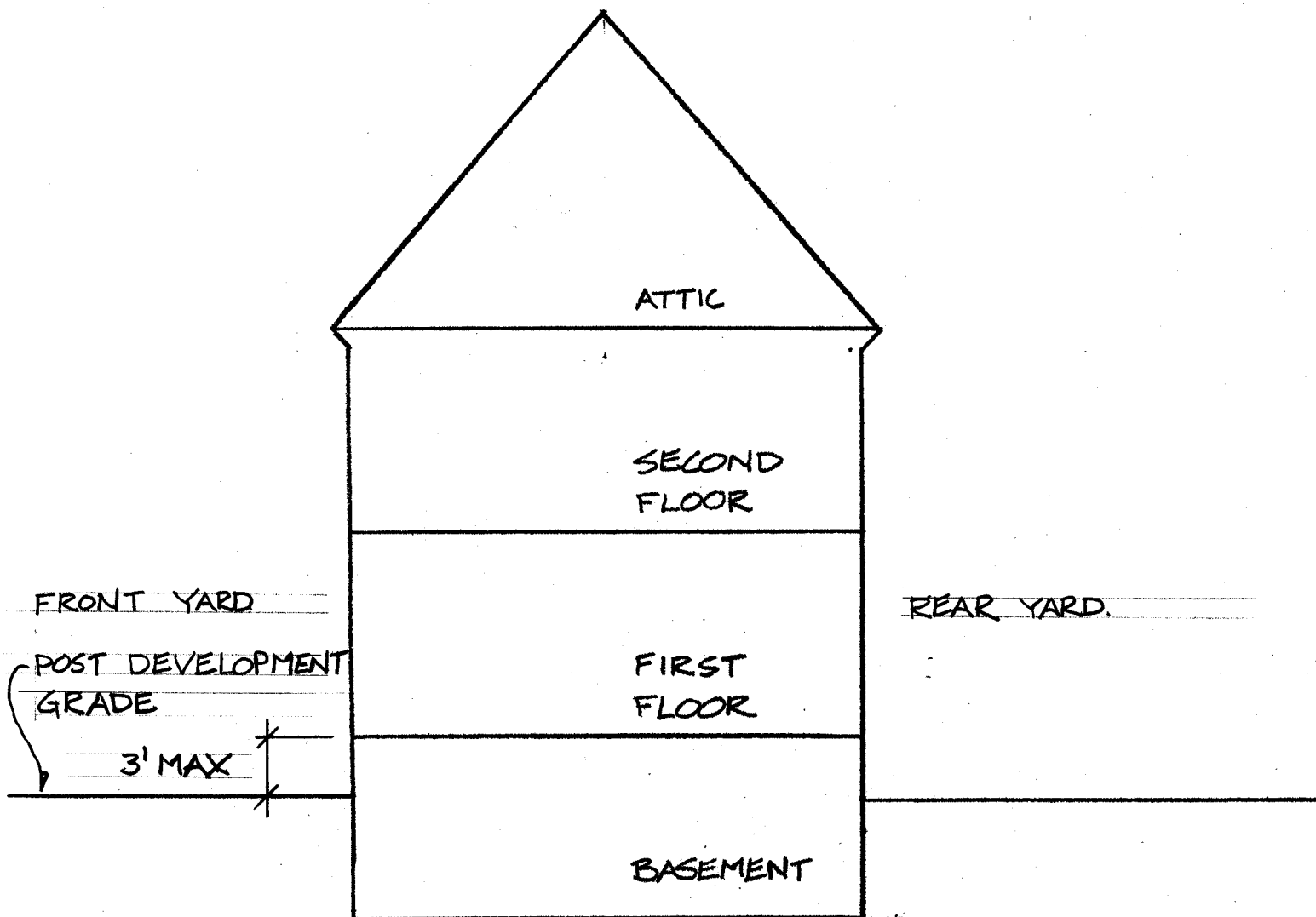


FIGURE 6: FIRST FLOOR ELEVATIONS.